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THE FOUR KEY QUESTIONS
TO ASSESS IN CHAPTER 7 CASES

1. WHAT DOES THE DEBTOR GET TO KEEP AND WHAT DOES THE DEBTOR HAVE TO TURN OVER TO THE TRUSTEE OR CREDITORS?

A. Property of the Bankruptcy Estate - §541

- (1) Existing rights and property
- (2) Subsequently acquired rights and property
- (3) Avoidable transfers
- (4) Property held in trust for another

B. Exemptions- §542

- (1) State law exemptions (Exemption Seminar and Supplement in CD)
- (2) Tenancy by the entirety
- (3) Non-Bankruptcy Federal exemptions

C. Surrender - §521

D. Abandonment - §554

E. Relief from Stay - §362

2. WHAT DEBTS ARE DISCHARGED, OR CONVERSLY, WHAT DEBTS SURVIVE BANKRUPTCY?

A. Objections to Discharge - §725 (Checklist in CD)

B. Exceptions to Discharge - §523 (Checklist in CD)

C. Reaffirmations - §524

3. WHO MAY GET SUED BY THE TRUSTEE?

A. Bankruptcy Causes of Action

(1) Avoidance of unperfected transfers - §544

(2) Preferences - §547

(3) Fraudulent Transfers - §548

(4) Limitations on homestead exemptions - §522(o),

B. State Law Causes of Action

(1) Fraudulent transfers – Fla. Stat. chapter 726

(2) Fraudulent conversion of non-exempt to exempt – Fla. Stat. § 222.30.

(3) Insider preferences – Fla. Stat. §726.106(2).

(4) Trustee's right to pursue creditor's state law causes of action. §544.

4. WHO MAY END UP IN JAIL?

A. Bankruptcy Crimes – Title 18 of the U.S. Code, Chapter 9 (Checklist in CD)

(1) Concealment of assets, false oath, false claims, bribery - §152

(2) Embezzlement against the Estate - §153

(3) Adverse interest and conduct of officers - §154

(4) Fee agreements in cases under Title 11 and receiverships - §155

(5) Knowing disregard of bankruptcy law or rule by bankruptcy petition preparer - §156

(6) Bankruptcy Fraud - §157.

B. Other state and federal criminal laws.